

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

APRIL DARLINE BAILEY,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION
)	FILE NO.
)	
KOHL'S, INC.,)	
)	
Defendant.)	
)	

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant Kohl's, Inc., pursuant to the provisions of 28 U.S.C. §§ 1332, 1441(a) and 1446, files this Notice of Removal of Civil Action No. 21-A-1552 from the State Court of Cobb County, State of Georgia, to the United States District Court for the Northern District of Georgia, Atlanta Division. In support of this Notice of Removal, Kohl's states as follows:

1. On or about April 29, 2021, Plaintiff commenced a civil action by filing a Complaint in the State Court of Cobb County, State of Georgia, entitled *APRIL DARLINE BAILEY, v. KOHL'S, INC.*, Civil Action No. 21-A-1552.
2. The Summons and Complaint were served on Kohl's on May 5, 2021.

3. Pursuant to 28 U.S.C. § 1446(a), copies of the Summons and Complaint, which constitute the only process, pleadings or orders served upon Kohl's or their counsel in this action, are attached hereto as Exhibit A.

4. Pursuant to 28 U.S.C. § 1446(b), this Notice is being filed with this Court within thirty (30) days of Kohl's first receipt of a copy of the initial pleading.

5. At the time of commencement of this action, and at the time of the service of the Complaint, Kohl's was and is a Delaware Company with its principal place of business in Menomonee Falls, Wisconsin. (See Exhibit B attached hereto, which is a true and correct copy of the filing with the Georgia Secretary of State).

6. Thus, for purposes of determining diversity of citizenship, Kohl's is a citizen of the States of Wisconsin or Delaware.

7. Plaintiff is a citizen of the State of Georgia. (Complaint, ¶ 1).

8. As Plaintiff is a Georgia citizen, and Kohl's is not a citizen of the State of Georgia, complete diversity of citizenship exists between Plaintiff, on the one hand, and Kohl's, on the other hand.

9. The Complaint alleges that "Plaintiff suffered bodily injuries as a direct and proximate result of the fall on the Premises on the date of the incident." (Complaint, ¶ 18(a)).

10. The Complaint further alleges that Plaintiff sustained “serious injury” as well as “past, present, and future mental and physical pain and suffering, disruption of normal life and diminution in the enjoyment of life.” (*Id.* at ¶ 18(b)).

11. The Complaint alleges that Plaintiff has incurred “past, present and future medical expenses and special damages.” (*Id.* at ¶ 18 (d)).

12. Prior to filing this Notice of Removal, the undersigned conferred with Plaintiff’s counsel requesting that Plaintiff stipulate that the amount in controversy would not exceed \$75,000. Plaintiff’s counsel stated that he was unable to do so, and therefore, Kohl’s filed this Notice.

13. Thus, this case satisfies the jurisdictional amount in controversy requirement.

14. This action is one over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332(a). This action is therefore removable pursuant to 28 U.S.C. § 1441.

15. Venue is proper because this Court is the federal court for the district and division embracing Cobb County, Georgia.

16. Removal is timely. Kohl’s was served with a copy of the Summons and Complaint on May 5, 2021. This Notice of Removal is being filed within the thirty (30) days of the date of service of process.

17. Written notice of filing this Notice of Removal will be served upon Plaintiff. As required by 28 U.S.C. 1446(d), a copy of this Notice will also be filed with the Clerk of the State Court of Cobb County, Georgia, the Court in which the action was originally filed.

18. In filing this Notice of Removal, Kohl's does not waive any defense or defenses that may be available to it. Further, Kohl's does not admit, acknowledge, or otherwise concede that Plaintiff is entitled to recover any damages from Kohl's or that Kohl's engaged in any wrongful or improper conduct.

WHEREFORE, Kohl's respectfully requests that the civil action now pending in the State Court of Cobb County proceed in this Court as an action properly removed thereto.

This 4th day of June 2021.

LEACH & LOWE LLC

/s/Marlo Orlin Leach

Marlo Orlin Leach

Georgia Bar No. 442216

Attorneys for Defendant

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CERTIFICATE OF FONT SIZE AND TYPE

This is to certify that pursuant to N.D. Ga. Local Rule 7.1(D), this document was prepared in Times New Roman, 14-point type as required by the Northern District of Georgia Local Rule 5.1(C).

This 4th day of June 2021.

/s/Marlo Orlin Leach
Marlo Orlin Leach

CERTIFICATE OF SERVICE

I hereby certify that on this day a copy of the ***NOTICE OF REMOVAL*** was served upon Plaintiff's counsel in the foregoing matter by depositing a copy of same in the U.S. mail with adequate postage affixed thereto to:

Cody Allen
Morgan & Morgan
408 12th Street, Suite 200
Columbus, Georgia 31901

This 4th day of June 2021.

LEACH & LOWE LLC

/s/Marlo Orlin Leach

Marlo Orlin Leach
Georgia Bar No. 442216
Attorneys for Defendant

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